

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:19-CV-00060-FDW-DSC**

TROY O. MILLER,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
KILOLO KIJAKAZI, ACTING COMMISSIONER OF SOCIAL SECURITY,¹)	
)	
Defendant.)	

Plaintiff's counsel filed a Motion for Attorney's Fees under 42 U.S.C. § 406(b) in the amount of \$4,042.00. Attorney's fees under 42 U.S.C. § 406(b) are paid from past-due benefits awarded to a successful claimant. Defendant filed a response to the Motion noting that, under Gisbrecht v. Barnhart, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. 406(b) in the amount of \$4,042.00. Plaintiff's counsel will reimburse Plaintiff any fees previously received under the Equal Access Justice Act, 28 U.S.C. § 2412.

The Clerk is directed to send copies of this Order to counsel for the parties and to the Honorable Frank D. Whitney.

SO ORDERED.

¹Kilolo Kijakazi is Acting Commissioner of Social Security and substituted as Defendant in this matter pursuant to Fed.R.Civ.P 25(d) and Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

Signed: August 10, 2021

D S Cayer
David S. Cayer
United States Magistrate Judge

